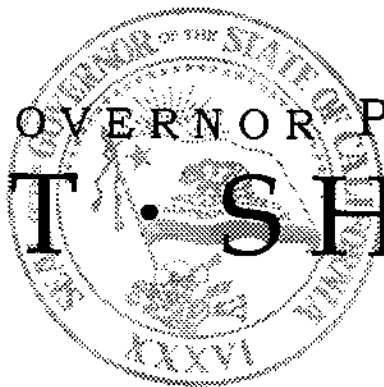


# OFFICE OF GOVERNOR PETE WILSON FACT SHEET



*"The Bar has drifted and become lost, its ultimate mission obscured.... It is time for the Bar to get back to the basics: admissions, discipline and educational standards."*

**-- Governor Pete Wilson  
October 11, 1997**

## ***REFORMING THE STATE BAR***

California's State Bar, established in 1927 to regulate the legal profession and promote the fair and efficient administration of justice, has strayed from its original mission and failed its members. Charging dues twice as high as the national average, it has wasted the money on extreme special interest political causes, secret lobbying contracts, palatial headquarters and unnecessary junkets, while ignoring the pleas of members to reform itself and lower its fees. The 750-employee Bar has become, in the Governor's words, "bloated, arrogant, oblivious, and unresponsive."

Last year Governor Wilson vetoed the Bar's authorization until reforms were put in place to restore its accountability to its members. Today, the Governor announces his support for significant reforms that will end the abuses and place the State Bar on a solid foundation for the future. These reforms will:

- Concentrate and restrict the Bar's mandate;
- Restore financial accountability;
- Improve legislative and judicial oversight; and
- Dramatically reduce members' annual dues.

## THE STATE BAR: ABUSES AND ARROGANCE

The State Bar of California, the largest bar organization in the world with more than 750 full-time employees and over 125,000 practicing member attorneys, was created in 1927 as an arm of the California Supreme Court. Its original mission was to regulate the legal profession and promote the fair and efficient administration of justice. Today, however, the Bar acts as a trade organization promoting the legal profession, while continuing to regulate and discipline attorneys – a dual responsibility that many of its own member attorneys call a conflict of interest.

California's Bar is a mandatory one, meaning that all attorneys must be members in order to practice law. Its budget – over \$65 million – is financed from application fees and annual bar dues, which at \$478 are more than twice as large as the average dues amount in the other 49 states.

In 1996, a substantial minority of bar members voted to abolish the mandatory bar in favor of a voluntary model, citing not only conflicts of interest and excessive dues, but excessive partisanship. In 1990, the U.S. Supreme Court in the case *Keller v. State Bar of California* (496 U.S.1) ruled that the Bar had impermissibly spent its dues in the promotion of political positions and causes which did not reflect the beliefs of many of its members. The Supreme Court allowed it to finance only those activities involving the regulation of the profession and the quality of legal services (last year, the Bar claimed the average amount of dues it spent on politics was 15 cents).

**"The State Bar has done everything it could to get its lawyer members angry. It's the only organization in the world that is completely unpopular among the people who belong to it."**

**-- Peter Keane, chief public defender, San Francisco (*San Francisco Chronicle*, 3/28/98)**

Since that decision, the State Bar's actions have only heightened concerns among its members:

- It staunchly resisted significantly reducing bar dues, supporting a paltry \$20 reduction on the one hand while calling for the extension of a \$110 per year increase on the other – despite two separate studies calling for a sizable reduction and pronouncing the Bar's budget as glutted;<sup>1</sup>
- It rejected attempts to increase legislative oversight;
- It hired a new executive officer at an annual salary of \$200,000 plus perks;
- It paid its former executive officer \$900,000 for two years of lobbying services (plus a proposed additional illegal \$75,000 bonus), without notifying its own Board of Governors;
- It spent members' dues money on unnecessary junkets;

<sup>1</sup> Studies by the State Auditor, and by a committee chaired by U.S. Court of Appeals Judge Arthur Alarcon

- It bought a new \$20 million downtown San Francisco headquarters, which was christened the Palazzo di Bar<sup>2</sup>;
- Over the objection of the entire civil defense bar, it lobbied to increase liability limits in medical malpractice cases, which would have gutted the state's two-decade-old medical malpractice act.

As a final thumb in the eye of its members, at the State Bar's annual convention last September, delegates adopted resolutions calling for numerous controversial policies, including:

- Legalizing same-sex marriages;
- Prohibiting discrimination against transvestites and transsexuals;
- Reducing sentencing penalties against drug dealers and repeat child molesters; and
- Overturning Proposition 209 with regard to state-funded law schools.

## REFORMING THE BAR

In order to send a message that business as usual is unacceptable, Governor Pete Wilson last year vetoed a bill authorizing the State Bar to continue collecting all but a tiny portion of its mandatory dues money from members. An effort to override the veto failed. Following the veto, only 25 percent of its members heeded the Bar's call to voluntarily pay the full amount of their dues; an informal poll conducted by the Daily Journal found that a majority of California lawyers agreed with the Governor's charge that the State Bar has become "bloated, arrogant, oblivious and unresponsive."

The Governor has announced support for effective reforms of the State Bar to end its abuses. These reforms will **concentrate the Bar's mandate, restore financial accountability, improve oversight, and enhance members' services.**

### Mandate

- The Bar's mandate will become the "protection of the public," with its top priority the maintenance of discipline among members, not "promotion of the legal profession."

### Financial Accountability

- Bar dues will be shrunk to \$295 per year.
- The Bar will be placed on a fiscal year budget, submitted to the State budget process.

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<sup>2</sup> George Kraw, columnist for The Recorder, a San Francisco legal newspaper (Sacramento Bee, 4/19/98)

- Bar dues will be authorized only for the following functions:
  - ⇒ Discipline (intake, enforcement and an ethics hotline);
  - ⇒ Funding the State Bar Court (\$50 per member);
  - ⇒ Providing for a Client Security Fund (\$35 per member);
  - ⇒ Providing for a building fund (\$10);
  - ⇒ Billing and membership records;
  - ⇒ Providing for a legislative liaison; and
  - ⇒ Administration and support, including accounting and employing a General Counsel to support disciplinary actions (the Bar would not be authorized to hire outside counsel unless it first sought the services of the Office of the Attorney General and was declined).
- The disposition of the Mandatory Continuing Legal Education program will be decided at a future date by the state Supreme Court.

## **Oversight**

- The 23-member Board of Governors will be replaced by an appointed Board similar to that employed by the Medical Board of California. The first gubernatorial appointments will be made no earlier than January 10, 1999, and will be subject to Senate confirmation;
- Board members will not be allowed to serve simultaneously on the board of any voluntary Bar Association.
- The Board shall be subject to the Bagley-Keene Act (open hearings).
- The duties of the State Bar Court will be shifted to the California Supreme Court;
- The Bar will not be allowed to maintain or implement programs or expend members' dues unless expressly authorized by statute;
- A legislative liaison will be employed to communicate exclusively on legislation directly impacting Bar admissions, discipline, and scope of practice, as well as the regulation of law schools or administration of Bar programs expressly authorized by statute; and
- The Bar will be prohibited from engaging the services of contract lobbyists unless specifically authorized by legislation.
- Commencing July 1, 1999, the Bar shall be subject to a comprehensive, independent audit before a dues amount can be authorized for the next Budget cycle.

The Bar will be authorized to maintain the following programs without cost to its members:

- Admissions, including regulation of law school fees paid by applicants and schools;

- Legal services for the indigent, funded by the interest on Client Security Funds (otherwise known as IOLTA), cannot be used for ideological or policy purposes. This type of restriction was recently upheld by a recent Federal Ninth Circuit Court decision;
- The Judicial Nominees Evaluation (JNE) Committee (costs will be paid subject to contractual agreement with the Governor's office);
- Certification of Specialties;
- Certification of Lawyer Referral Services; and
- Fee arbitration services.

## **OTHER REACTIONS TO THE CURRENT STATE BAR**

*"It spends a lot of money on things most lawyers don't care about, and it engages in lobbying efforts that most lawyers are not a part of. It is the ultimate closed shop."* – State Senator Quentin Kopp (IND - South San Francisco)

*"The Bar's demise can be placed squarely on its own sagging, but well-adorned shoulders. The organization for decades has resisted please for reform, acted as a wild and whimsical political animal, and until relatively recently, failed to properly police the worst offenders of its own industry."* -- Ken Garcia, columnist, San Francisco Chronicle, 3/28/98

*"The State Bar leadership deserved and needed a lesson in humility and fiscal prudence. The legal organization's officers need to convince lawmakers and the Governor that it got that lesson."* – Editorial, San Francisco Chronicle, 3/25/98

*"[The State Bar] has given ammunition to its enemies with a long record of arrogance toward critics and questionable use of dues money for lobbying and liberal-leaning political advocacy with which many members disagree. Some of its stands had little or nothing to do with the practice of law."* – Editorial, San Francisco Examiner, 5/19/98

*"Not since the [Berlin] Wall came down have the sounds of an empire crumbling been as unmistakable as those emerging these days from the beleaguered bunker of the State Bar. Or as welcome."* -- UC/Berkeley Law Professor Stephen E. Barnett (California Bar Journal)

*"It seems the Bar has never really taken seriously the discontent that many members feel when it uses the[ir] money for political purposes."* – Anthony Caso, Pacific Legal Foundation (San Francisco Chronicle, 3/21/98)

*"Governor Wilson has the conviction to stand up to the State Bar and I applaud him.... Gov. Wilson is right to scale down the State Bar."* – Barbara J. Swist, founder/president, Consumers for Legal Reform (Orange County Register, 5/5/98)